

House File 2315 - Introduced

HOUSE FILE 2315

BY KLEIN

A BILL FOR

1 An Act prohibiting the department of natural resources from
2 employing peace officers to enforce the laws of the state
3 or rules and regulations pertaining to the natural resource
4 commission and including coordinating provisions, and
5 including an appropriation.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 85.61, subsection 11, unnumbered
2 paragraph 1, Code 2016, is amended to read as follows:

3 "Worker" or "employee" means a person who has entered
4 into the employment of, or works under contract of service,
5 express or implied, or apprenticeship, for an employer; an
6 executive officer elected or appointed and empowered under and
7 in accordance with the charter and bylaws of a corporation,
8 including a person holding an official position, or standing in
9 a representative capacity of the employer; an official elected
10 or appointed by the state, or a county, school district, area
11 education agency, municipal corporation, or city under any form
12 of government; a member of the state patrol; ~~a conservation~~
13 ~~officer~~; and a proprietor, limited liability company member,
14 limited liability partner, or partner who elects to be covered
15 pursuant to [section 85.1A](#), except as specified in [this chapter](#).

16 Sec. 2. Section 97B.49B, subsection 1, paragraph e,
17 subparagraph (1), Code 2016, is amended to read as follows:

18 (1) A conservation peace officer ~~employed under section~~
19 ~~456A.13 or as~~ designated by a county conservation board
20 pursuant to [section 350.5](#).

21 Sec. 3. Section 456A.12, Code 2016, is amended to read as
22 follows:

23 **456A.12 Lighting by law enforcement vehicles of ~~conservation~~**
24 **peace officer.**

25 The required usage of lighting devices set out in sections
26 321.384 through 321.409 and [section 321.415](#) does not apply to
27 official law enforcement vehicles operated by ~~conservation~~
28 peace officers ~~appointed under [section 456A.13](#)~~, while these
29 vehicles are being used in criminal investigations or while
30 attempting to apprehend suspected criminals to enforce laws
31 of the state and rules and regulations pertaining to the
32 jurisdiction of the commission.

33 Sec. 4. Section 456A.13, Code 2016, is amended to read as
34 follows:

35 **456A.13 ~~Officers and employees — peace officer status~~**

1 Assistants.

2 1. The director shall employ the number of assistants,
 3 including a professionally trained state forester, that are
 4 necessary to carry out the duties imposed on the commission;
 5 ~~and, under the same conditions, the director shall appoint the~~
 6 ~~number of full-time officers and supervisory personnel that~~
 7 ~~are necessary to enforce all laws of the state and rules and~~
 8 ~~regulations of the commission. The full-time officers and~~
 9 ~~supervisory personnel have the same powers that are conferred~~
 10 ~~by law on peace officers in the enforcement of all laws of the~~
 11 ~~state of Iowa and the apprehension of violators. A person~~
 12 ~~appointed as a full-time officer shall be at least twenty-one~~
 13 ~~years of age on the date of appointment and shall not be~~
 14 ~~employed as a full-time officer after attaining the age of~~
 15 ~~sixty-five. "Full-time officer" means any person appointed by~~
 16 ~~the director to enforce the laws of this state.~~

17 2. Notwithstanding any other provision of law to the
 18 contrary, enforcement of all laws of the state and rules
 19 and regulations of the commission shall be enforced by a
 20 peace officer of the department of public safety or of the
 21 municipality or county where a violation occurs. The director
 22 shall not employ assistants or employees with the status of
 23 a peace officer to enforce laws of the state or rules and
 24 regulations of the commission.

25 Sec. 5. Section 456A.24, subsection 12, Code 2016, is
 26 amended by striking the subsection.

27 Sec. 6. Section 461A.41, unnumbered paragraph 2, Code 2016,
 28 is amended to read as follows:

29 This section shall not apply to activities of the commission
 30 or its ~~officers, or~~ employees when caring for and managing
 31 state-owned land and waters under the jurisdiction of the
 32 commission. This section shall not apply to the gathering or
 33 removal of any tree, shrub, plant, flower, fruits, structures,
 34 or natural attractions under terms, conditions, limitations,
 35 and restrictions adopted by the commission as rules under

1 chapter 17A.

2 Sec. 7. Section 462A.12, subsection 6, Code 2016, is amended
3 to read as follows:

4 6. An owner or operator of a vessel propelled by a motor
5 of more than ten horsepower shall not permit any person under
6 twelve years of age to operate the vessel unless accompanied
7 in or on the same vessel by a responsible person of at
8 least eighteen years of age who is experienced in motorboat
9 operation. A person who is twelve years of age or older
10 but less than eighteen years of age shall not operate any
11 vessel propelled by a motor of more than ten horsepower unless
12 the person has successfully completed a department-approved
13 watercraft education course and obtained a watercraft education
14 certificate or is accompanied in or on the same vessel by a
15 responsible person of at least eighteen years of age who is
16 experienced in motorboat operation. A person required to
17 have a watercraft education certificate shall carry and shall
18 exhibit or make available the certificate upon request of
19 ~~an a peace officer of the department.~~ A violation of this
20 subsection is a simple misdemeanor as provided in section
21 462A.13. However, a person charged with violating this
22 subsection shall not be convicted if the person produces
23 in court, within a reasonable time, a watercraft education
24 certificate. The cost of a watercraft education certificate,
25 or any duplicate, shall not exceed five dollars.

26 Sec. 8. Section 462A.20, Code 2016, is amended to read as
27 follows:

28 **462A.20 Boat inspection.**

29 1. A vessel either for hire or offered for hire upon any
30 waters of this state under the jurisdiction of the commission
31 may be inspected at any time by ~~representatives of the~~
32 ~~commission or by~~ any peace officer who is trained in enforcing,
33 and who in the regular course of duty enforces, boating and
34 navigation laws.

35 2. ~~Officers appointed by the commission or any~~ Any peace

1 officer who is trained in enforcing, and who in the regular
2 course of duty enforces, boating and navigation laws shall have
3 the power and authority to determine whether such vessel is
4 safe for the transportation of passengers or cargo and upon
5 what waters it may be used. ~~They~~ A peace officer may determine
6 and designate the number of passengers or cargo, including
7 crew, that may be carried and determine whether the machinery,
8 equipment and all appurtenances are such as to make the vessel
9 seaworthy, where used, and such other matters as are pertinent.

10 3. Private vessels may also be inspected to determine their
11 seaworthiness at any time by ~~representatives of the commission~~
12 ~~or by~~ any peace officer who is trained in enforcing, and who
13 in the regular course of duty enforces, boating and navigation
14 laws.

15 Sec. 9. Section 462A.23, subsection 1, Code 2016, is amended
16 to read as follows:

17 1. Any peace officer ~~appointed by the commission~~ may, for
18 cause, temporarily suspend the registration certificate of
19 any vessel that has been issued under this chapter, and the
20 commission, after a due hearing on the matter at its next
21 session, shall make final determination in the matter.

22 Sec. 10. Section 462A.29, Code 2016, is amended to read as
23 follows:

24 **462A.29 Official duty exempted.**

25 Peace officers, members of the commission, ~~its~~ their
26 deputies, agents, and employees are not violating the
27 provisions of this chapter while acting within the scope
28 of their employment in search and rescue operations, law
29 enforcement duty, emergency duty, and other resource management
30 activities as determined by rules of the commission.

31 Sec. 11. Section 462A.34B, subsections 1 and 2, Code 2016,
32 are amended to read as follows:

33 1. The operator of a vessel commits a serious misdemeanor if
34 the operator willfully fails to bring the vessel to a stop or
35 otherwise eludes or attempts to elude an authorized marked law

1 enforcement vessel operated by a uniformed peace officer ~~or by~~
2 ~~a water patrol officer of the department of natural resources,~~
3 after being given a visual and audible signal to stop. The
4 signals given by the officer shall be by displaying a blue
5 light or flashing blue and red lights and by sounding a horn or
6 siren.

7 2. The operator of a vessel commits an aggravated
8 misdemeanor if the operator willfully fails to bring the
9 vessel to a stop or otherwise eludes or attempts to elude
10 an authorized marked law enforcement vessel operated by a
11 uniformed peace officer ~~or by a water patrol officer of the~~
12 ~~department of natural resources,~~ after being given a visual and
13 audible signal to stop as provided in [this section](#) and in doing
14 so exceeds a reasonable speed.

15 Sec. 12. Section 462A.34B, subsection 3, unnumbered
16 paragraph 1, Code 2016, is amended to read as follows:

17 The operator of a vessel commits a class "D" felony if the
18 operator willfully fails to bring the vessel to a stop or
19 otherwise eludes or attempts to elude an authorized marked law
20 enforcement vessel operated by a uniformed peace officer ~~or by~~
21 ~~a water patrol officer of the department of natural resources,~~
22 after being given a visual and audible signal to stop as
23 provided in [this section](#), and in doing so exceeds a reasonable
24 speed, and if any of the following occurs:

25 Sec. 13. Section 462A.66, Code 2016, is amended to read as
26 follows:

27 **462A.66 Inspection authority.**

28 ~~An officer of the commission or any~~ Any peace officer who
29 is trained in enforcing, and who in the regular course of duty
30 enforces, boating and navigation laws may stop and inspect a
31 vessel being launched, being operated, or being moored on the
32 waters of this state under the jurisdiction of the commission
33 to determine whether the vessel is properly registered,
34 numbered, and equipped as provided under [this chapter](#) and rules
35 of the commission. An officer may board a vessel in the course

1 of an inspection if the operator is unable to supply visual
2 evidence that the vessel is properly registered and equipped
3 as required by *this chapter* and rules of the commission. The
4 inspection shall not include an inspection of an area that is
5 not essential to determine compliance with the provisions of
6 this chapter and rules of the commission.

7 Sec. 14. Section 462A.70, subsection 2, Code 2016, is
8 amended to read as follows:

9 2. *Test to determine true number or plate.* When it appears
10 that a hull identification number, capacity plate, or any
11 other plate, warning label, or instrument required by state
12 or federal law has been altered, defaced, or tampered with, a
13 peace officer ~~or inspector employed by the commission~~ or any
14 other person acting under the direction of a peace officer ~~or~~
15 ~~inspector~~, may apply any recognized process or test to the
16 vessel or part containing such number or plate for the purpose
17 of determining the true number or plate content.

18 Sec. 15. Section 481A.13, Code 2016, is amended to read as
19 follows:

20 **481A.13 Search warrants.**

21 Any court having jurisdiction of the offense, upon receiving
22 proof of probable cause for believing that any fish, mussels,
23 clams, frogs, birds, furs, or animals caught, taken, killed,
24 had in possession, under control, or shipped, contrary to the
25 Code, or hidden or concealed in any place, shall issue a search
26 warrant and cause a search to be made in any place therefor.
27 The property so seized under warrant shall be safely kept under
28 the direction of the court so long as necessary for the purpose
29 of being used as evidence in any trial, and if a trial results
30 in a conviction the property seized shall be confiscated by the
31 director ~~or the director's officers~~ by a peace officer.

32 Sec. 16. Section 481A.30, Code 2016, is amended to read as
33 follows:

34 **481A.30 Entire shipment contraband.**

35 In the shipping of fish, game, animals, birds, or furs,

1 whenever a container includes one or more fish, game, animals,
2 birds or furs that are contraband, the entire contents of the
3 container shall be deemed contraband, and shall be seized by
4 the director or ~~the director's officers~~ by a peace officer.

5 Sec. 17. Section 481A.35, Code 2016, is amended to read as
6 follows:

7 **481A.35 Attorney general and county attorneys.**

8 It shall be the duty of the attorney general, when requested
9 by the director, to give the attorney general's opinion in
10 writing upon any question of law arising under this chapter;
11 and it shall be the duty of all county attorneys in this state
12 when requested by the director or any peace officer ~~appointed~~
13 ~~by the commission~~, to prosecute all criminal actions brought in
14 their respective counties for violations of the provisions of
15 this chapter. Nothing in this chapter shall be construed as
16 prohibiting any person from instituting legal proceedings for
17 the enforcement of any of the provisions thereof.

18 Sec. 18. Section 481A.40, subsection 5, Code 2016, is
19 amended to read as follows:

20 5. ~~An~~ A peace officer ~~of the department~~ may take possession
21 of or dispose of any wildlife under the jurisdiction of the
22 department of natural resources that the officer reasonably
23 believes has been administered drugs in violation of this
24 section.

25 Sec. 19. Section 481A.52, Code 2016, is amended to read as
26 follows:

27 **481A.52 Exhibiting catch to officer.**

28 A person who has in possession any game bird or game animal,
29 fish or fur or part thereof shall upon request of the director
30 or any peace officer ~~appointed by the department~~ exhibit it to
31 the director or officer, and a refusal to do so is a violation
32 of the Code.

33 Sec. 20. Section 481A.56, subsection 3, Code 2016, is
34 amended to read as follows:

35 3. A call back pen or live trap may be used for the purpose

1 of retrieving banded birds when released in the wild for
2 training purposes. Any bird not so banded when taken in a call
3 back pen or trap shall be immediately returned unbanded to the
4 wild. All call back pens or live traps when in use shall have
5 attached a metal tag plainly labeled with the owner's name and
6 address. Conservation Peace officers shall have authority
7 to confiscate such traps when found in use and not properly
8 labeled.

9 Sec. 21. Section 481A.62, subsections 5 and 6, Code 2016,
10 are amended to read as follows:

11 5. An on-site inspection of facilities shall be conducted
12 by an a peace officer ~~of the commission~~ prior to the initial
13 issuance of a game breeder's license. The facilities may be
14 reinspected by an officer ~~of the commission~~ at any reasonable
15 time.

16 6. Any peace officer ~~of the commission~~ may enter any place
17 where any game bird, game animal, or fur-bearing animal is
18 at the time located, or where it has been kept, or where the
19 carcass of such animal may be, for the purpose of examining it
20 in any way that may be necessary to determine whether it was or
21 is infected with any contagious or infectious disease.

22 Sec. 22. Section 481A.68, subsection 3, Code 2016, is
23 amended to read as follows:

24 3. An untagged tip-up fishing device found in use shall be
25 confiscated by any peace officer ~~appointed pursuant to section~~
26 ~~456A.13 or 456A.14.~~

27 Sec. 23. Section 481A.73, Code 2016, is amended to read as
28 follows:

29 **481A.73 Trotlines and tagged lines.**

30 In the waters of the state open to their use, a person shall
31 not use more than five tagged lines set to take fish such as
32 trotlines or throw lines. Such tagged lines shall not have
33 in the aggregate more than fifteen hooks. Each separate line
34 when in use shall have attached a tag plainly labeled with the
35 owner's name and address, shall be checked at least once each

1 twenty-four hours, and a person shall not use tagged lines in a
2 stocked lake or within three hundred feet of a dam or spillway
3 or in a stream or portion of stream, which is closed or posted
4 against the use of such tackle. One end of such lines shall be
5 set from the shore and be visible above the shore waterline,
6 but no such line shall be set entirely across a stream or body
7 of water. Any untagged or unlawful lines when found in use
8 shall be confiscated by any peace officer ~~appointed by the~~
9 ~~director~~.

10 Sec. 24. Section 481A.90, subsection 1, Code 2016, is
11 amended to read as follows:

12 1. A person shall not molest or disturb, in any manner,
13 any den, lodge, or house of a fur-bearing animal or beaver dam
14 except by written permission of an a peace officer ~~appointed by~~
15 ~~the director~~.

16 Sec. 25. Section 481A.92, subsection 1, Code 2016, is
17 amended to read as follows:

18 1. A person shall not use or attempt to use colony traps
19 in taking, capturing, trapping, or killing any game or
20 fur-bearing animals except muskrats as determined by rule of
21 the commission. Box traps capable of capturing more than one
22 game or fur-bearing animal at each setting are prohibited. A
23 valid hunting license is required for box trapping cottontail
24 rabbits and squirrels. All traps and snares used for the
25 taking of fur-bearing animals shall have a metal tag attached
26 plainly labeled with the user's name and address. All traps
27 and snares, except those which are placed entirely under
28 water, shall be checked at least once every twenty-four hours.
29 ~~Officers appointed by the department~~ A peace officer may
30 confiscate such traps and snares found in use that are not
31 properly labeled or checked.

32 Sec. 26. Section 481A.126, subsection 6, Code 2016, is
33 amended to read as follows:

34 6. All transactions, tags, and specimens left in the
35 custody of the taxidermist by another person shall be open to

1 inspection by a ~~conservation~~ peace officer at any reasonable
2 hour.

3 Sec. 27. Section 481C.2A, subsection 4, Code 2016, is
4 amended to read as follows:

5 4. A person who harvests a deer with a deer depredation
6 license or a deer shooting permit issued pursuant to this
7 section shall utilize the deer harvest reporting system set
8 forth in [section 483A.8A](#) and shall not be subject to different
9 disposal or reporting requirements than are applicable to the
10 harvest of deer pursuant to other deer hunting licenses except
11 that any antlers on a deer taken pursuant to a shooting permit
12 shall be delivered to the local ~~conservation~~ peace officer for
13 disposal.

14 Sec. 28. Section 482.7, subsection 1, Code 2016, is amended
15 to read as follows:

16 1. A commercial fisher, commercial turtle harvester,
17 or commercial roe harvester licensee must be present when
18 commercial gear is operated. A commercial fish helper or
19 commercial turtle helper shall not operate commercial gear
20 except under the direct supervision of a commercial fisher,
21 commercial turtle harvester, or commercial roe harvester. A
22 nonresident commercial turtle helper is licensed only to assist
23 a licensed nonresident commercial turtle harvester. Commercial
24 gear shall be lifted and emptied of catch as provided by the
25 rules of the commission. Constant attendance by the commercial
26 fisher of seines, trammel nets, and gill nets is required
27 when the gear is fished by driving, drive-seining, seining,
28 floating, or drifting methods. ~~Officers of the commission~~
29 A peace officer may grant a reasonable extension of gear
30 attendance intervals only upon the request of a commercial
31 fisher, commercial turtle harvester, or commercial roe
32 harvester specifying why such an extension is necessary.

33 Sec. 29. Section 482.14, subsection 6, Code 2016, is amended
34 to read as follows:

35 6. Facilities and records of commercial fish buyers,

1 commercial turtle buyers, commercial roe harvesters, and
2 commercial roe buyers shall be open at all reasonable times for
3 inspection by any ~~conservation~~ peace officer.

4 Sec. 30. Section 483A.24, subsection 7, Code 2016, is
5 amended to read as follows:

6 7. A license shall not be required of minor pupils of the
7 state school for the blind, state school for the deaf, or of
8 minor residents of other state institutions under the control
9 of an administrator of a division of the department of human
10 services. In addition, a person who is on active duty with the
11 armed forces of the United States, on authorized leave from
12 a duty station located outside of this state, and a resident
13 of the state of Iowa shall not be required to have a license
14 to hunt or fish in this state. The military person shall
15 carry the person's leave papers and a copy of the person's
16 current earnings statement showing a deduction for Iowa income
17 taxes while hunting or fishing. In lieu of carrying the
18 person's earnings statement, the military person may also claim
19 residency if the person is registered to vote in this state.
20 If a deer or wild turkey is taken, the military person shall
21 immediately contact a ~~state conservation~~ peace officer to
22 obtain an appropriate tag to transport the animal. A license
23 shall not be required of residents of county care facilities
24 or any person who is receiving supplementary assistance under
25 chapter 249.

26 Sec. 31. Section 483A.27, subsections 5 and 10, Code 2016,
27 are amended to read as follows:

28 5. ~~An A~~ A peace officer ~~of the department~~ or a certified
29 instructor may issue a certificate to a person who has not
30 completed the hunter education course but meets the criteria
31 established by the commission.

32 10. A person under eighteen years of age who is required
33 to exhibit a valid hunting license shall also exhibit a
34 valid certificate of completion from a state approved hunter
35 education course upon request of ~~an a~~ a peace officer ~~of the~~

1 department. A failure to carry or refusal to exhibit the
2 certificate of completion as provided in [this subsection](#) is a
3 violation of [this chapter](#). A violator is guilty of a simple
4 misdemeanor as provided in [section 483A.42](#).

5 Sec. 32. Section 483A.32, Code 2016, is amended to read as
6 follows:

7 **483A.32 Public nuisance.**

8 Any device, contrivance, or material used to violate a rule
9 adopted by the commission, or any other provision of this
10 chapter or [chapter 481A](#), [481B](#), [482](#), [484A](#), or [484B](#), is a public
11 nuisance and may be condemned by the state. ~~The director, the~~
12 ~~director's officers, or any~~ Any peace officer, shall seize the
13 devices, contrivances, or materials used as a public nuisance,
14 without warrant or process, and deliver them to a magistrate
15 having jurisdiction. An automobile shall not be construed to
16 be a public nuisance under [this section](#).

17 Sec. 33. Section 801.4, subsection 11, paragraph g, Code
18 2016, is amended by striking the paragraph.

19 Sec. 34. REPEAL. Sections 456A.14 and 461A.26, Code 2016,
20 are repealed.

21 Sec. 35. STATE MANDATE APPROPRIATION. There is
22 appropriated from the state fish and game protection fund of
23 the state to the department of natural resources for the fiscal
24 year beginning July 1, 2016, and ending June 30, 2017, the
25 following amount, or so much thereof as is necessary, to be
26 used for the purpose designated:

27 For disbursement to a municipality or a county upon a
28 claim filed by the municipality or county to reimburse
29 the municipality or county for costs associated with the
30 administration of this Act:

31 \$ 8,600,000

32 1. The department shall adopt rules pursuant to chapter 17A
33 specifying the procedures to be followed by a municipality or a
34 county in submitting claims for reimbursement.

35 2. The appropriation made in this section shall be deemed

1 to meet all the state funding-related requirements of section
2 25B.2, subsection 3, and no additional state funding shall
3 be necessary for the full implementation of this Act by
4 and enforcement of this Act against all affected political
5 subdivisions.

6 EXPLANATION

7 The inclusion of this explanation does not constitute agreement with
8 the explanation's substance by the members of the general assembly.

9 This bill provides that the director of the department of
10 natural resources shall not employ assistants or employees with
11 the status of a peace officer to enforce laws of the state
12 or rules and regulations of the natural resource commission
13 and such enforcement shall be by a peace officer of the
14 department of public safety or of the municipality or county
15 where a violation occurs. The bill also includes coordinating
16 provisions.

17 The bill may include a state mandate as defined in Code
18 section 25B.3. The bill also includes an appropriation for
19 FY 2016-2017 to comply with the state mandate funding-related
20 requirements of Code section 25B.2. The inclusion of the
21 appropriation is intended to reinstate the requirement of
22 political subdivisions to comply with any state mandates
23 included in the bill.